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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JUN 23 1997

Federal Communications Commission
Office of Secretary

In the Matter of

BROADBAND PCS C AND F-BLOCK
INSTALLMENT PAYMENT ISSUES

WT Docket No. 97-82

To: Chief, Wireless Telecommunications Bureau

COMMENTS

Holland Wireless, L.L.C., Wireless 2000, Inc., Northern Michigan PCS Consortium L.L.C., PCSouth, Inc. and Communications Venture PCS Limited Partnership (jointly the "Licensees"), by their attorney, respectfully submit these Comments in response to a Public Notice (DA 97-679) issued by the Wireless Telecommunications Bureau ("Bureau") on June 2, 1997. In that Public Notice the Bureau requested comments on proposals received by the Commission for alternative financing arrangements for broadband PCS C and F block licensees, and at the same time invited additional proposals on PCS financing terms. Through these comments, the Licensees support the concept of modification of payment terms in order to enhance the possibility that all C and F block licensees will be successful in their arrangement of construction and operations financing. The Licensees recognize that even if they are independently successful in their financing arrangements, regional and nationwide networks are less likely to emerge if there is a wide-scale failure in the ability of other C and F block licensees to fulfil their system build-out plans.

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List A B C D E

Introduction

1. Each of the Licensees was a successful bidder for C and/or F block PCS licenses in the Commission's auctions of wireless spectrum. Exhibit 1 hereto provides a listing of the licenses for which each of the Licensees was the high bidder.

2. In the months since their PCS licenses were granted, each of the Licensees has pursued commercial financing opportunities for system development costs. Notwithstanding the success enjoyed by the cellular industry in the last 10 years, lenders have been unwilling to offer financing to PCS licensees on commercially reasonable terms without recourse to assets other than PCS equipment. These comments will suggest modification of license payment terms, as well as other measures, to enhance the ability of C and F block licensees to overcome obstacles that were generally not encountered by cellular licensees in their arrangement of system build-out financing.

A Choice of Payment Terms, and Modification of the Present Terms, Would Promote PCS Build-out and Competitive Wireless Offerings

3. By these Comments, the Licensees suggest that the Bureau adopt a set of alternative financing arrangements that would be available to all C and F block licensees according to their individual needs. Each arrangement would involve the same net benefit to the government, but allow a C or F block licensee to

make a one-time election of a license payment plan that best suits its needs.

4. The current (but suspended) interest payment obligation, when coupled with the security interest in licenses held by the government, presents an obstacle to the availability of commercial financing. It is apparent that prospective lenders would be more accommodating to some C and F block licensees if the license payment terms could be altered in a manner that allowed for a deferral of license payments while PCS systems were constructed, and business plans implemented. In this regard, Licensees generally support the proposal of MCI, if expanded to include all C and F block licensees, that would allow for deferral of payments and accrual of interest for the first five years of the license term. Afterward, a plan for payment of interest on an annual basis, exclusive of principal repayment for at least two years, could be offered.

5. Licensees suggest that an alternative opportunity be provided to retire their obligation for license payment by means of a one-time payment. For example, the payment could be due 120 days after the availability of the plan is announced. The payment amount would be the then-present value of the note that would have been signed if the extended payment plan had been selected. Such payment would be discounted from the winning bid amount to reflect the time value of money at the government's cost of borrowing.

This arrangement would provide flexibility for licensees to negotiate commercial financing terms that would allow another lender, to the extent permitted by the Commission, to acquire a security interest in the license.^{1/}

6. If the FCC were to decide on a reduction in the bid amount of licenses, as suggested by General Wireless, Inc., all C and F block licensees should benefit in an equivalent manner. There should be no distinction among C and F block winners according to the variance in particular instances from the mean bid amount for A/B block prices, for example.

**Modification of Payment Terms is
Consistent With Commission Pro-Competitive Policies**

7. There are sound reasons why the Commission should adopt revisions to its current installment payment plan. The present arrangements, adopted in 1995, reflect the Commission's best efforts to establish reasonable terms that would allow entrepreneurs to balance the obligations of government license debt with commercial debt in the build-out of PCS systems. Assumptions and predictions which led to the present rules unfortunately have proved to be unworkable for some auction winners who are presently

^{1/} Licensees agree with proponents of change to Commission rules and policies which preclude a commercial lender from acquiring a security interest in a license. The absence of any means by a commercial lender to secure a priority position in a license, including situations where no government license debt is involved, has a profoundly negative effect on the availability of commercially reasonable terms to a licensee.

in default. Other winners appear to be on the brink of default, saved only by the Commission's suspension of interest payments and the hope of relief as the result of this proceeding.

8. No one other than incumbent wireless services providers, and other auction winners who desire less competition, will benefit from widespread default by PCS auction winners. The promise of PCS and the benefits to the American public were recognized by the Commission when it adopted regulations, in 1993, for this new service:

We find that there is increasing business and consumer demand for new mobile services and technologies. The record provides strong evidence that there is interest in new mobile services and advanced technologies that offer the ability to communicate with individuals directly wherever they may be, rather than to a specific geographic point...[W]e conclude that establishment of a new PCS service will benefit the American public by creating an industry that will offer a diverse array of services.

Moreover, the new PCS industry is expected to compete with the existing cellular and private advanced mobile communications services, thereby yielding lower prices for existing users of those services...Accordingly, we conclude there is a need to establish a new PCS service and to allocate spectrum for its operation. [Second Report and Order in Gen. Docket No. 90-314, 8 FCC Rcd. 7700 (1993) at paras. 17-18]

Certainly no promises were made to auction participants that they would be successful in their businesses. And yet, it appears ironic that some of those businesses will never be launched due to a combination of circumstances which include the payment terms on license debt and the inability of commercial lenders to take a security interest in licenses. The Commission clearly is under no

obligation to do anything to modify its rules, and yet the Commission is also empowered to take reasonable steps, in the post-auction light of day, to delay the obligation for payment and to allow commercial lenders to have a role in the disposition of a license in the event of a default.

9. The cost of PCS build-out presents a formidable challenge under the best of circumstances. Here, the burden of developing a business which is highly capital intensive is overwhelming. Any change to license payment terms which promotes the availability of reasonable commercial financing would help to fulfill the Commission's goals in the allocation of spectrum for PCS.

**Elimination or Modification of the Minimum
Construction Requirements Would Reduce Concern of Lenders;
At the Least, C-Block Licensees Should be Permitted to Show
"Substantial Service" as F-Block Licensees May Show**

10. The areas for which Licensees were granted C and/or F block license(s) are markets which are small and, in many instances, rural in nature.^{2/} This is problematic for Licensees because Section 24.203 of the Commission's rules states minimum construction requirements for 30 MHz and for 10 MHz PCS licensees. Failure to meet the requirements, absent a waiver of the rules,

^{2/} None of the C or F block licenses held by Licensees is for a market ranked in the top-90 in population. Many of the markets are sparsely populated, such as Basic Trading Areas on the Upper Peninsula of Michigan where Northern Michigan PCS Consortium L.L.C. was granted licenses.

subjects a licensee to forfeiture of the license regardless of whether payments on government license debt were timely made.

11. A commercial lender obviously has great concern over the possibility that a borrower may forfeit a license due to a construction coverage deficiency. At the same time, a licensee should not be compelled to construct facilities in areas which offer little promise of financial return. Here, the Commission should recognize that there are ample competitive motivations for a licensee to construct wherever service is feasible. The notion of a minimum construction requirement no longer is appropriate, and the requirement should be eliminated from the rules.

12. However, if the construction requirement is not abandoned, it should be relaxed to grant a licensee more flexibility in business planning. Not all areas of the country are alike, of course, and population density should not be the variable which allows some licensees to meet the requirement, and requires other licensees to spend their construction dollars inefficiently. At a minimum, the Commission should modify the construction requirements for C block licensees, and allow them to submit a showing of "substantial service" to a market as F block licensees may do in order to retain their licenses.^{3/}

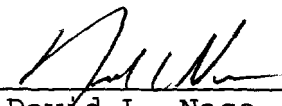
^{3/} Compare Section 24.203(a) applicable to C block licensees, and Section 24.203(b) applicable to F block licensees. The former does not allow for a showing of "substantial service" in lieu of population coverage in order to comply with the requirement.

Conclusion

13. Licensees support a modification to repayment terms for license debt, with an alternative which allows for prepayment at a discounted present value of the obligation to the government. All C and F block licensees should be offered the same terms as a means to assure fairness in the process.^{4/} While the Commission is free to disregard the problems faced by a new PCS industry, based upon a disclaimer of responsibility and an assumption of business risk, the Commission is also empowered, and should use its reasonable judgement, to review the terms for payment if the result would facilitate the development of PCS networks on a regional and national basis.

Respectfully submitted,

**HOLLAND WIRELESS, L.L.C.
WIRELESS 2000, INC.
NORTHERN MICHIGAN PCS CONSORTIUM L.L.C.
PCSOUTH, Inc. and
COMMUNICATIONS VENTURE PCS LIMITED
PARTNERSHIP**

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June 23, 1997

^{4/} Even licensees which have prepaid government license obligations should be granted an opportunity to avail themselves of new terms.

EXHIBIT 1

Holland Wireless, L.L.C.

F BTA 453, Utica, NY

Wireless 2000, Inc.

C BTA 009, Alexandria, LA
C BTA 238, Lake Charles, LA
C BTA 304, Monroe, LA

Northern Michigan PCS
Consortium L.L.C.

C BTA 011, Alpena, MI
C BTA 132, Escanaba, MI
C BTA 194, Houghton, MI
C BTA 206, Iron Mountain, MI
C BTA 207, Ironwood, MI
C BTA 282, Marquette, MI
C BTA 409, Sault Ste. Marie, MI

PCSouth, Inc.

C BTA 455, Vicksburg, MS
F BTA 012, Altoona, PA
F BTA 049, Blytheville, AR
F BTA 059, Bryan, TX
F BTA 120, Dyersburg, TN
F BTA 149, Ft. Collins, CO
F BTA 172, Greeley, CO
F BTA 175, Greenville, MS
F BTA 182, Harrison, AR
F BTA 210, Jackson, MS
F BTA 211, Jackson, TN
F BTA 219, Jonesboro, AR
F BTA 292, Meridian, MS

Communications Venture PCS
Limited Partnership

C BTA 015, Anderson, IN
C BTA 155, Fort Wayne, IN
C BTA 309, Muncie, IN

CERTIFICATE OF SERVICE

I hereby certify that on June 23, 1997, a copy of the foregoing Comments was served by first-class mail, postage prepaid, upon the party(ies) on this service list.

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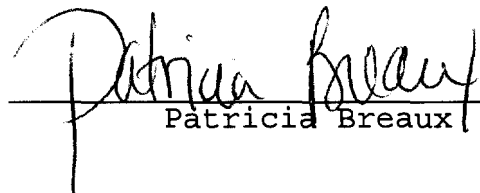
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